

REMARKS

At the time of the Second Office Action dated September 12, 2008, claims 1-23 were pending and rejected in this application. Applicants have cancelled claims 1-23 to remove these claims from further consideration in this application. Applicants are not conceding in this application that those claims are not patentable over the prior art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the present application. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications. New claims 24-38 have been presented, and Applicants respectfully submit that the present Amendment does not generate any new matter issue.

Since claims 1-23 have been cancelled, the pending rejections of claims 1-23 are moot. However, Applicants will address newly added claims 24-38 as they relate to the previously-applied prior art. Applicants previously argued that the applied prior art fails to identically disclose the claimed "estimated SLA breach value." As previously claimed, the estimated SLA breach value was associated with a communicative couple. The Honorable Board's analysis regarding this particular limitation is found in the second full paragraph on page 9 of the Decision on Appeal. Specifically, the Honorable Board wrote:

The claim limitation further requires that one end of this communicative coupling be "to a user interface." The rest of the claim limitation, "through which an SLA breach values estimate is proposed," recites the use intended for the claimed structure. However, nothing in claim 1 affirmatively sets forth any structure that accepts the breach value estimate (or data). Nor does claim 1 affirmatively recite any structure that links this data to any component that is capable of performing the subsequently recited "at least one SLA breach value estimation process." As such, the limitation "a further communicative coupling to a user interface through which an SLA breach value estimate is proposed" merely reads, for example, on a cable for various data input components that are capable of proposing SLA breach value estimates. That is, the contested limitation reads on, inter alia, a cable for a computer keyboard or mouse. (emphasis added)

1 Notably, the Honorable Board did not give the term "estimated SLA breach value" any
2 patentable weight. In so doing, the Honorable Board found that the previously claimed "a further
3 communicative coupling to a user interface through which an SLA breach value estimate is
4 proposed" is identically disclosed by "a cable for a computer keyboard or mouse." In view of
5 these findings, Applicants have presented new independent claims that positively recite the
6 claimed "estimated SLA breach value." Importantly, Applicants note that the Honorable Board
7 made or endorsed no findings that the applied prior art identically discloses the claimed
8 "estimated SLA breach value." On this basis, Applicants maintain that the applied prior art fails
9 to teach the limitations now presented in claims 24-38.

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Applicants have made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicants hereby respectfully request reconsideration and prompt allowance of the pending claims.

Although Applicants believe that all claims are in condition for allowance, the Examiner is directed to the following statement found in M.P.E.P. § 706(II):

When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction. (emphasis added)

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

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Respectfully submitted,

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